



DURHAM POLICE DEPARTMENT RESPONSE TO ALLEGATIONS OF RACIAL PROFILING AND BIAS-BASED POLICING

Final Report to the Durham City Manager

Prepared by:
The Executive Command Staff of the Durham Police Department

Durham Police Department Response to Allegations of Racial Profiling and Bias-Based Policing

Executive Summary

In recent months, the Durham Police Department has been the subject of accusations of racial profiling and discrimination in taking enforcement actions, or bias-based policing. Most of the detractors, to include the N.A.A.C.P., the Southern Coalition for Social Justice; Fostering Alternative Drug Enforcement or F.A.D.E.; and numerous other community groups and citizens have made reference to an analytical report dated February 1, 2012 and prepared by Dr. Frank R. Baumgartner and Derek Epp with the Department of Political Science at the University of North Carolina at Chapel Hill. The various detractors have pointed to this statewide study as proof of the existence of racial profiling and biased based policing within the Department. The N.A.A.C.P. publicly denounced what they described as troubling patterns of racial profiling and police misconduct; and an alleged lack of accountability and transparency. The N.A.A.C.P. went so far as to characterize the Durham Police Department as a broken system in need of repair. We respectfully disagree with this mischaracterization and have undertaken the task of researching and preparing a response to refute these allegations.

We began our effort by thoroughly reading and examining the Baumgartner traffic stop study along with the executive summaries that accompanied it. Additionally, we reviewed Baumgartner's most recent presentation to the North Carolina Commission on Racial Disparities in the Criminal Justice System. Based on our review of the study and other literature, it would appear that the study authors employed a research method that merely describes a data set or population, but it doesn't appear that other statistical tests were applied that would accurately lead to conclusions of racial profiling or discrimination. While we cannot deny the various numerical disparities, we respectfully submit that, (1) disparity and discrimination are two different terms and shouldn't be used interchangeably, (2) a numerical disparity alone is not necessarily indicative of discrimination, and (3) the overall data, absent more in depth statistical analysis, is inconclusive at best. No two traffic stops are alike – even when conducted by the same officer.

There are numerous factors that contribute to what occurs during a traffic stop. The study treated all traffic stops as if they were the same; suggested that the numerical disparities occurred along racial lines; and suggested the disparities were indicative of racial profiling. The study authors, and the many police detractors that refer to the study, selected a few glaring examples to share with the public while neglecting to probe deeper into those findings or mention some contradictory findings within the study itself. For example, one statement pulled from the study that has been presented at public forums and reported in the media points out that Blacks are three times as likely to be arrested after a stop for a seat belt violation compared to Whites. The uninitiated reader may be led to believe that the drivers were arrested for the seat belt violation, which is untrue. Seat belt violations are infractions and officers cannot arrest for such violations; therefore, those drivers were arrested for other violations discovered during the stop. This is just one example of where the context behind the stop is so important for bringing some clarity to the raw data and avoiding negative presumptions. Another issue is searches after the stop. While the Baumgartner study points out the numeric disparities, it again provides no context. For example, searches are generally but not exclusively conducted based on consent obtained from the driver, probable cause observed by the officer, or after someone is arrested. The type of assignment that an officer is working contributes to the search decisions as well. For example, officers doing any type of vehicular drug interdiction, whether on the highways or local streets, are going to try to legally search the vehicles they stop – that's their primary job function. The driver can always deny consent, and ignoring probable cause would be negligent on the part of the officer.

In addition to reviewing the Baumgartner study, we also looked for other examples of traffic stop studies and methods as well as any literature or research surrounding racial profiling and traffic stop studies. We found support for our assessment that the Baumgartner study results were inconclusive at best. The most noteworthy supporting source was a study commissioned by the United States Department of Justice, Office of Community Oriented Policing Services (COPS) which is cited in our response. In this study an analysis was conducted of all of the racial profiling and traffic stop studies available at that time. **The researchers concluded that the research conducted thus far varies in findings, although most studies do not conclude that the police are engaged in racial profiling; and the current research shouldn't be used for setting public policy.** All sources are cited within our response and copies of the sources are attached to our response as exhibits.

Our response is not intended to deny the existence of racial profiling, nor to deny the possibility that some officers may be engaged in bias-based policing. Our purpose is to, (1) suggest that the data contained in the Baumgartner study needs more in-depth statistical analysis applied by the authors before any assumptions can accurately be made from it, and (2) to assert that neither racial profiling nor any type of bias-based policing are systematically practiced or accepted within the Durham Police Department.

Along with the allegations of racial profiling, concerns have also been raised regarding accountability and transparency within the Durham Police Department. The N.A.A.C.P. expressed concern about the number of non-sustained findings among complaints against officers, and referred to our current system of filing a complaint and having it investigated as flawed. Our detractors note that of the 252 complaints of misconduct filed between 2004 and 2009, seventy-five percent were dismissed. First, we don't "dismiss" complaints; the various types of findings are outlined in our response. The seventy-five percent may very well refer to a combination of all findings other than "sustained"; however, we submit there is nothing to show that this is inappropriate. Cases are investigated to render a finding of fact; and findings are based on facts and evidence as they should be. If there is not enough evidence to support a sustained finding then it is not appropriate to sustain the complaint. To say that there must be something wrong because seventy-five percent of a large group of complaints couldn't produce a sustained finding begs the question: What is an acceptable percentage and why? If we follow this line of thinking, then case findings wouldn't be based on facts and evidence alone as they should be but would be further influenced by a pre-determined acceptable percentage.

With respect to the Civilian Review Board, detractors point to the fact that only five appeals were filed to the Board between 2004 and 2009 as evidence of a broken system. Detractors have also requested that the Board have access to all of the case file information for their review; that it reviews internally generated complaints as well as citizen complaints; and multiple other requests.

The Civilian Review Board is not controlled or influenced by the Durham Police Department. Appeals of the Police Department findings regarding complaints are at the discretion of the original complainant – not the Police Department. As a matter of fact, the Police Department actually provides the appeal form and instructions to every complainant at the

conclusion of their case. The fact that only five appeals were filed indicates that only five people were dissatisfied enough with the findings to take the personal responsibility and exercise their right to an appeal. The Board receives copies of the entire case file and all associated evidence, documents, interviews, etc. We respectfully submit that the fact that this neutral body of people can review one of our case files and elect not to hold a hearing speaks more to the quality of our work product rather than any systemic flaw.

The N.A.A.C.P. pointed out that the Durham Police Department recorded 745 internally generated complaints between 2010 and 2012 and only fifty percent of those were sustained. What they don't mention is that internal complaints are generally but not limited to performance based issues such as failing to report to work at an off-duty job, failing to show up for court, failing to complete required training, rudeness or minor misconduct, assorted policy violations, traffic accidents, etc.

The assertion that the Durham Police Department is over-policing in communities of color is inaccurate. Police resources are deployed as needed based on a combination of factors such as citizen calls for service data; known criminal activity observed by officers; and crime data. For example, in 2012 there were a total 2134 complaints of drug activity dispatched via 911 citywide. This doesn't include the numerous complaints submitted by citizens via telephone, email, or personal contact with officers and commanders. In short, the people of color who live in these communities are asking the police for help. For example, in District 1 alone, there were 693 calls from citizens to 911 about drug activity in 2012. That's thirty-two percent of the citywide totals for the same period. It is unfortunate that there is a disproportionate amount of violent crime and drug crime within communities of color. The important thing to keep in mind is that the victims who live in these communities are people of color. Were we to fail to respond to their cries for assistance, coupled with objective data supporting their concerns, we would be negligent in our duties and be at risk for accusations of abandoning these communities to their fate. In our response, we expound on our Operation Bull's Eye as an example of data-driven policing and the positive impact that it has had on a community of color.

The law enforcement profession has received its share of criticism during its history – some of it deservedly so. The power and authority the police are given over the general public comes with a price of responsibility and accountability. The public enjoys a legitimate right to

expect a higher standard of behavior from its police officers. We are not so naïve and self-righteous as to suggest that every member of the Durham Police Department is perfect and without fault. With over 500 sworn personnel, there will be some who fall short of our shared expectations. A reasonable public expectation should be that there are clear policies and practices prohibiting misconduct; that allegations of misconduct of any kind are thoroughly and objectively investigated; and that appropriate discipline is administered when necessary.

We do recognize that some members of the public have a perception that bias-based policing and other types of misconduct are entrenched within the structure and culture of the Department; and in a very real sense their perception is their reality. We acknowledge that we must make a conscious effort to change that perception. We would respectfully submit that our Department and the City have sound and robust policies in place to protect its citizens and allow for a redress of any citizen concerns. We respectfully submit that the Department's current detractors have not provided sufficient facts or evidence that would necessitate immediate wholesale changes to the current policies and practices. We respectfully ask that facts and evidence of concerns be presented; that we be given the opportunity to investigate concerns as they arise; and if the citizen is not satisfied, then he or she may exercise their right to take their concern to the next highest authority.

**DURHAM POLICE DEPARTMENT RESPONSE TO ALLEGATIONS OF
RACIAL PROFILING AND BIAS-BASED POLICING**

Final Report to the Durham City Manager

Prepared By:

The Executive Command Staff of the Durham Police Department

October 31, 2013

Table of Contents

Response to Allegations of Racial Profiling and Bias-Based Policing	Page 1
Introduction	Page 5
Allegations of Racial Profiling	Page 6
Conclusion	Page 29
 Allegations of Inequities within the Complaint Process of the Durham Police Department and Concerns Regarding the Citizens' Police Review Board	 Page 32
Introduction	Page 32
Internal Affairs Investigations Generally	Page 32
The Civilian Review Board	Page 37
Over-Policing in Communities of Color	Page 39
Works Cited	Page 43

Introduction

In recent months, the Durham Police Department has been subjected to accusations of racial profiling and discrimination in taking enforcement actions, or bias-based policing. Most of the accusers, to include the N.A.A.C.P., the Southern Coalition for Social Justice; Fostering Alternative Drug Enforcement or F.A.D.E.; and numerous other community groups and citizens have made reference to an analytical report dated February 1, 2012 and prepared by Dr. Frank R. Baumgartner and Derek Epp with the Department of Political Science at the University of North Carolina at Chapel Hill. The accusers have pointed to this study as proof of the existence of racial profiling and biased based policing within the Department. The N.A.A.C.P. released a public statement which alleged in part, "Through statistics and individual cases, we see troubling patterns of racial profiling and police misconduct on the one hand, and a lack of accountability and transparency on the other. Combined, these are evidence of a broken system deeply in need of repair ("Durham NAACP Public Statement on Racial Profiling, 2013).

The traffic stop study prepared by Baumgartner was part of a broader effort to study racial bias in North Carolina's criminal justice system by the North Carolina Advocates for Justice Task Force on Racial and Ethnic Bias. The researchers began their study by examining data related to traffic stops. The Executive Summary (2012) produced by the task force states among other things that, "An analysis of data collected and provided by the State shows major disparities based on race and ethnicity in the administration of justice in North Carolina. We believe the State has an obligation to explain the disparities and, if racial bias is a factor, to take strong action to restore fairness." Note that the task force did not say that racial bias is or was a factor – they simply stated that there were disparities in the data and if racial bias is, or was, a factor then certain actions should be taken.

McMahon, Garner, Davis and Kraus (2002) wrote that based on a Washington Post survey, 52 percent of African-American males believe they have been victims of racial profiling, while a Gallop poll indicates that about 60 percent of Americans believe racial profiling exists. Police departments as a whole have always had their detractors who leveled criticisms and accusations of bias and misconduct. In some cases, those allegations were unfortunately true. Some of these current accusations are rooted in personal experiences, while others are just suspicions based on hearsay. Unfortunately, the work produced by Baumgartner and Epp has,

albeit unintentionally, given credence to previously unsupported suspicions and is being used by others to undermine the public credibility of an entire police department. This response is an effort to respond to the critics of the Durham Police Department and the accusations being leveled.

This response does not presume that bias-based policing doesn't exist. As Dr. Lorie Fridell (2004) said during a presentation, "We live in a society with racial/ethnic biases. Every profession has biased practitioners, even well-meaning ones. Why should we think policing is immune?" We are not so naïve as to believe that there are no police officers somewhere engaging in this behavior. We acknowledge that it is certainly possible that an individual officer or officers may engage in this negative conduct. This response is not presented to challenge the numerical accuracy of the data used in the study; nor is it the position of the Police Department that the numerical disparities are inaccurate. We acknowledge that descriptive statistics and bivariate analysis have their place as good starting points for research and discussion. Our purpose here is to:

1. Affirmatively deny the existence of any pattern, practice, culture, or tolerance for bias-based policing within the Durham Police Department;
2. To suggest some context for the raw data presented in the Baumgartner study and submit an alternative view of the numerical data within that context;
3. And to illustrate that the data as presented does not provide a sound basis for the allegations being directed at the Department.

Allegations of Racial Profiling

Moving into the body of the study itself, we notice that Baumgartner and Epp (2012) employ the term "Racial Profiling" in the first line of text and give a brief history of the term; however they neglect to define Racial Profiling. We should begin by providing a definition for Racial Profiling. An online search produced the following definitions:

- *The National Institute of Justice defines Racial Profiling as a practice that targets people for suspicion of crime based on their race, ethnicity, religion or national origin. Creating a profile about the kinds of people who commit certain types of*

crimes may lead officers to generalize about a particular group and act according to the generalization rather than specific behavior.

- *Legal Dictionary, defines Racial Profiling as the consideration of race, ethnicity, or national origin by an officer of the law in deciding when and how to intervene in an enforcement capacity.*
- *The American Civil Liberties Union defines Racial Profiling as the discriminatory practice by law enforcement officials targeting individuals for suspicion of crime based on the individual's race, ethnicity, religion or national origin. Criminal profiling, generally, as practiced by police, is the reliance on a group of characteristics they believe to be associated with crime. Examples of racial profiling are the use of race to determine which drivers to stop for minor traffic violations (commonly referred to as "driving while black or brown"), or the use of race to determine which pedestrians to search for illegal contraband.*

The common theme running through all three definitions is that an officer develops suspicion or makes a decision to take an enforcement action based on the person's race, absent any other factors. Police detractors point to the numerical disparities as clear indicators of bias-based policing to include racial profiling. We respectfully submit that this assemblage of data only describes a numerical disparity. This data doesn't show that race is a reason, let alone the sole reason, to the exclusion of all others for actions taken by the officers before, during, or after the stop. A *disparity* is defined in most dictionaries as the state of being dissimilar. *Discrimination* is generally defined as, among other things, biased or unfair judgments or treatment. Disparity is a purely descriptive term, while discrimination is a conscious act taken by an individual. These two terms are not synonymous and it is inappropriate to use them interchangeably.

Grossi, Higgins, and Vito (2012) found that, "The decisions that police officers have to make in the field are very complex, repetitive, and frequently constrained by time, space, and resources that generate a substantial amount of uncertainty or ambiguity to arrive at a satisfactory decision. For a police officer, a situation where this may be heightened is a traffic stop. During the traffic stop, the police officer has some information, but usually does not have definitive

information about the character of the individual.” It is our position that the raw data alone, despite the numerical disparities it illustrates, cannot put anyone inside the minds of police officers as they go about their work. We respectfully submit that the lack of any consistency in these findings strongly suggests that the studies conducted thus far are cumulatively inconclusive at best; and a review of the available literature, conducted for this response, supports our position.

The Rand Corporation (2004) found in its research that more than 400 police agencies compile race data on stopped motorists, some voluntarily and some by order of the Justice Department. At the heart of this effort is the belief that if stop data are collected, it should be easy to assess racial bias in traffic stops. But while a spate of studies have used collected data to show whether racial profiling does occur, these studies suffer from a lack of rigor that calls their findings into question. At issue is what to compare or “benchmark” the stop data against. Studies have used census data, traffic surveys, and data on traffic stop outcomes, but all these benchmarks suffer from problems, such as not accounting for driving behavior or exposure to police. This fact is reiterated in an article written by Heather MacDonald (2002) which spoke to the issue of establishing a violator benchmark and stated in part, “To show that the police are stopping ‘too many members of a group, you need to know, at a minimum, the rate of law breaking among that group – the so-called violator benchmark. Only if the rate of stops or arrests greatly exceeds the rate of criminal behavior should our suspicions be raised . . . most of the studies that the ACLU and defense attorneys have proffered to show biased behavior by the police only use crude population measures as the benchmark for comparing police activity – arguing, say that if 24 percent of speeding stops on a particular stretch of highway were black drivers, in a city or state where blacks make up 19 percent of the population, the police are over-stopping blacks.”

Fridell (2004) asked an important question during her presentation that is relevant in this situation and that is not even considered, let alone addressed, by the Baumgartner study, **“What other than bias might account for the disparities?”** She goes on to say that people are not at equal risk of being stopped by the police, even in an unbiased world. The more they drive – the more at-risk they are; the more they violate traffic laws – the more at-risk they are; the more they drive in areas with high police stopping activity – the more at-risk they are. **When we look at**

the police-citizen contact data we need to take into consideration the factors other than bias that might explain police behavior. To determine whether there is a causal relationship between driver race/ethnicity and police behavior, we must rule out the possible causal impact of alternative, legitimate factors associated with police action.” Fridell (2004) points out that you control for these alternative factors by developing comparison groups that reflect the demographic makeup of groups at risk of being stopped by the police, absent bias. This is called “benchmarking the stops”. Benchmarks vary considerably in the extent to which they encompass or “control for” the legitimate factors that impact on police behavior, such as driving quantity, driving quality, and location. The stronger the benchmark, the stronger the conclusions that can be drawn; however, event benchmarks that come closest to measuring those “at risk of being stopped by police” have drawbacks. Fridell (2004) went on to touch on what she termed unadjusted census benchmarking. For example, let’s say that an agency finds disproportionate representation of minorities among people stopped compared to their representation in the residential population as measured by the census. The results show a disparity; however, the cause or causes of that disparity cannot be determined. The cause could be bias or driving quantity, driving quality, driving location, or other factors. The more risk-increasing factors a benchmark encompasses, the stronger it is at reducing the list of potential causes thus getting closer to isolating bias as a cause.

Baumgartner and Epp appear to have employed a process that describes a population – one that simply organizes correlates and describes data and the outcomes, also known as descriptive analysis or descriptive statistics. While descriptive analysis has its place, the results shouldn’t be generalized to any larger group without applying some benchmarking and statistical theory. Grossi et al. (2012) noted the importance of theory; “Theory is important for several reasons. First, theory provides researchers with a rational method for organizing their data . . . Second, theory provides a rationale as to why a concept behaves in the manner that it does. Thus, a theory would provide more understanding of the decisions that police officers make that result in disparities . . . Devoid of theory, research results are only descriptive and are not based on a set of concepts that have important relational links.” Additionally, assumptions regarding racial bias have been alleged based upon disparities in the outcome of the stops, as well as the searches. **With respect to searches, analysis based on outcome rates is inadequate because it fails to consider the effect of the search on crime rates rather than the productivity of the**

search; and they do not use multivariate analysis to consider the impact of variables other than race on search results.

Fridell (2004) noted that **“percent searched” data cannot draw conclusions regarding bias-based policing because you don’t have a benchmark for who is at risk of legitimately being searched by police. Data on “percent searched” can show a disparity, but it can’t pinpoint a cause for that disparity.** In short, while data on who is searched may show a disparity, you cannot draw conclusions regarding bias-based policing from that data.

The United States Department of Justice, Office of Community Oriented Policing Services, commissioned the CAN Corporation to conduct a review of the existing studies at the time (24) and produced guidelines for compiling and analyzing racial profiling data. McMahon, Garner, Davis, and Kraus (2002) conducted this review and stated that,

“The substantive findings from the available reports on racial profiling are diverse. Their assessments of the average annual risk of being stopped by the police while driving a vehicle vary greatly by jurisdiction, law enforcement agency, and methodology used. **Most of the analyses reported show that police traffic stops are not proportional to the racial distribution of that jurisdiction’s resident population, but most studies do not conclude that the police are engaged in racial profiling.** In addition, every study that examined police searches found some racial disproportionality, at least in certain types of police searches, but **the majority of the report authors concluded that police search behavior does not indicate racial profiling.** They went on to say that all of the reports had strengths and weaknesses and that no one study or study is likely to provide satisfactory answers to the central questions raised in the public discussion over bias-based policing. Furthermore, at the present time this body of research provides an inadequate basis for setting public policy. There are too few studies, over too short a period of time, with too diverse a set of findings, and with too many methodological limitations. **Because all studies have some methodological limitations, caution was recommended in using the findings of the available research.**”

We respectfully submit that the Baumgartner study falls within this same category and should be viewed in the same light. McMahon et al. (2002) go on to suggest that the following key issues are the most important considerations in conducting future analysis in trying to understand the nature and extent of racial profiling:

- Base Rates
- Measuring Race

- Geographical and Functional Allocations of Police Operations
- Multiple Predictors of Stops and Searches
- Criteria for the Existence and Extent of Racial Profiling

Attention to these analytical issues will enhance the value of future research to the participating police agencies and the communities they serve.

Most of the prior research has focused considerable attention upon identifying differences in the rates at which Blacks, Whites, and other races are stopped and searched by the police. This focus has obscured an important aspect of police public contacts – the base rate at which all individuals are stopped or searched by the police in that jurisdiction. Base rate reporting provides a simple basis for comparing the likelihood of being stopped and of being searched . . . Finally, base rates are easily derived from the data being collected.

There is little academic agreement on how to measure race or ethnicity and what to do with incidents where the race or ethnicity is unknown or not recorded. There are sometimes differences in how race is measured in population statistics from the census bureau and in stop and search data from police records.

Most research about traffic stops has not utilized a working knowledge of police operations. Law enforcement agencies allocate their personnel in response to perceived public preferences for services – generally, police officers are assigned on the basis of crimes called in by the public. Studies of racial profiling in traffic stops and searches have generally not incorporated this type of information into their data analyses in any explicit way. **Therefore, they cannot rule out the possibility that jurisdiction-wide racial disparities in traffic stops stem not from inequitable behavior of officers, but from equitable behavior by officers assigned in greater numbers to areas with a larger proportion of minorities. Assignment of a high proportion of officers to minority neighborhoods can generate disparate numbers of traffic stops for racial minorities even if officers are acting in a completely equitable manner. Data analyses on racial profiling that have not incorporated information about the allocation of police resources could easily be in error about the existence and nature of racial profiling.**

Existing research reports have also not considered the fact that traffic enforcement is, in many departments, the responsibility of a relatively small unit of officers. Relatively simple approaches to data collection and analysis can help assess the impact of differing police assignments, responsibilities, and current priorities, and these – and not officer attitudes – may be greater determinants of the racial distribution of traffic stops or searches. However, most research on racial profiling has failed to address whether differences in the proportion of traffic stops by race are due to these factors or are a result of the discretionary judgments of individual officers. For these reasons, prior studies provide little guidance concerning which types of remedial efforts are likely to be effective, where a problem exists, and which are unneeded or unlikely to affect the most severe problem behavior.

Most studies considered race in isolation from all other factors which might be influencing decisions to make a stop or conduct a search. These analyses are essentially single variable models such as 'race' versus 'stops'. The underlying assumption of this analytical model is that no other characteristics of the suspect, the officer, or the nature of the encounter independently influences stop and search decisions. **This one-variable model is grossly unrepresentative of the motivational factors behind police stops and searches. Continued use of the kinds of simple bivariate analyses that dominate the currently available reports is likely to lead to a larger number of reports with inconclusive findings. Additionally, current research has also failed to establish a consistent set of criteria to determine the nature and extent of racial profiling.**

In their study, Baumgartner and Epp (2012) write that Blacks and Hispanics are systematically searched at much higher rates than Whites, given stops for the same purpose. Employing the word systematic suggests an organizational practice or standard. We do not believe this to be the case within the Durham Police Department; as a matter of fact the opposite is true. The Durham Police Department has a specific policy in place expressly prohibiting any type of bias-based policing; recruits receive training in the academy denouncing racial profiling and bias-based policing; all officers are required to undergo mandatory training on the ills of racial profiling and bias-based policing each year; and the City of Durham provides training on diversity.

In marked contrast to the Baumgartner study, we would refer the reader(s) to a study commissioned by the Charlotte-Mecklenburg Police Department. A conversation with a former captain with that department revealed that they faced the same public scrutiny and criticism that the Durham Police Department is facing now. In response, William Smith, Elizabeth Davison, Matthew Zingraff, Kennon Rice, and Denise Bissler (2004) conducted a study to investigate the possible presence and extent of arbitrary profiling in the Charlotte-Mecklenburg Police Department. In this study one can readily see a much more rigorous, holistic, and in-depth analytical approach in the development of background information on police functions and practices, the identification of possible contributing factors, and the application of statistical methodology and modeling. A copy of the study itself accompanies this response as an exhibit, but excerpts from the executive summary are informative in that they provide some factual context for the data collected and they illustrate a more rigorous analytical methodology:

“The information used in the analysis includes the vehicular and pedestrian stop data provided by the CMPD, accident data obtained from the North Carolina Division of Motor Vehicles, and demographic data compiled from the U.S. Census Bureau. **In addition, citizens’ calls for service (911 calls) are utilized to help determine whether the stops and searches in various areas of the city are consistent with citizen demands for policing in those same areas.** Traffic accident and census data are used to create estimates of the racial composition likely to be found in particular areas of Charlotte-Mecklenburg and thus provide baselines for comparisons with the CMPD stop and search data. . .”

“In general it is found that stops and searches are largely accounted for by demand for police services and success in finding contraband, and not the demographic characteristics of the citizens. Still, analyses do identify particular geographic areas where the numbers of African Americans stopped and/or searched surpass what we would expect given our prediction models. In other areas, however, there are fewer African Americans stopped and/or searched than the statistical evidence indicates would be expected. . .”

“We find that there are some districts with more African Americans stopped or searched than we would expect, given the demographic makeup of the area and the demand for police presence as reflected in the area’s calls for service. At the same time there are some districts with fewer African Americans stopped or searched than we would expect. **The information available to us and the resulting prediction models do not allow one to make a definitive claim that those areas with greater numbers of African Americans stopped or searched indicate areas where racially biased policing is taking place.** Similarly, we do not know why, with certainty, some areas show lower numbers of stops and searches of African Americans than our model of such processes leads us to expect. . .”

“We found that the prevalence in the number of stops of citizens in the pedestrian and in the vehicular context is not accounted for by the racial makeup of the census block groups with which the data are analyzed. The factors that generally account for the number of stops are factors associated with the calls for service in the area, particularly calls for “incivility” type offenses (prostitutions, drugs, inebriated pedestrians, and fighting). Also important is the success in finding contraband, especially drugs and alcohol. In areas where there are more incivility calls for service and where there is more success in finding contraband, there are more pedestrian stops and searches. For vehicular stops, the number of drivers in accidents is the best predictor of the number of vehicular stops, but success in finding contraband in consent searches is also important . . . **For neither vehicular stops nor for pedestrian stops is the racial makeup of the population a factor in determining the number of such stops.** The number of incivility calls for service in a census block group is important for consent searches of African American drivers, as it is for pedestrian consent searches.”

We respectfully submit that the aforementioned study was more rigorous in its methodology than the Baumgartner study and its findings were consistent with the other literature cited in this response. Consequently, we don't feel that it is appropriate to employ the Baumgartner study results as proof of racial profiling or bias-based policing within the Durham Police Department. We do acknowledge that the Baumgartner study may serve as a starting point for additional analysis by the researchers.

In the following pages you will find excerpts from two Executive Summaries and the Baumgartner (2012) report compiled on this issue along with its accompanying research. The excerpts from the aforementioned documents are printed in red and our response follows immediately after each excerpt.

NORTH CAROLINA ADVOCATES FOR JUSTICE; TASK FORCE ON RACIAL AND ETHNIC BIAS EXECUTIVE SUMMARY

In the Executive Summary, Baumgartner and Epp (2012) write, "A comparison between the 2010 population percentage for each racial group, for the State overall and for each county individually, and the percentage for various justifications offered for each stop highlight a significant racial disparity for this form of law enforcement. For instance, while African Americans make up 22% of the overall population, 38% of the people pulled over for vehicle regulatory issues, 37% of people pulled over for vehicle equipment issues, and 33% of the people pulled over for other vehicle issues were African American. Once stopped the data show that African Americans and Hispanics are almost twice as likely to be searched and twice as likely to be arrested as Caucasian drivers."

These raw numbers, while accurate, don't answer questions such as why these persons were searched and or arrested. We can say with some confidence that very few, if any, patrol officers are making custodial arrests on these minor violations and tying themselves up at a Magistrate's Office for at least an hour if not longer. Custodial arrests during traffic stops are generally made when the driver has no identification thus prohibiting writing a citation; when there is probable cause or plain view evidence of another crime; or if the driver has outstanding warrants.

***NORTH CAROLINA TRAFFIC STOP STATISTICS ANALYSIS FINAL REPORT TO THE
NORTH CAROLINA ADVOCATES FOR JUSTICE TASK FORCE ON RACIAL AND
ETHNIC BIAS***

On page two of the Executive Summary, Baumgartner and Epp (2012) write, “Our analysis of over 13 million police stops, based on data collected and made available by the NC Department of Justice and covering all traffic stops in the state . . . shows extensive disparities by race. Black and Hispanic citizens are subject to consistently higher rates of search and arrest than Whites . . . However the disparities appear greatest when the level of officer discretion is highest – seat belts, vehicle equipment, and vehicle regulatory issues.”

Each officer is empowered with the same level of discretion – how they choose to employ it, and the consequences that may follow, is totally up to the individual officer. Second, **any driver can decline to have their vehicle searched when consent is requested by an officer.** If the officer has probable cause, then consent is not needed; or if the driver is arrested for whatever reason, this MAY provide an opportunity for a search. A recent U.S. Supreme Court case has significantly curtailed an officer’s ability to conduct a vehicle search incident to arrest. Any probable cause observed by an officer must be documented in his or her report for court purposes. Third, the vast majority of officers don’t ask for consent to search a vehicle without first having their suspicions raised. Either they see something, smell something, or the driver’s behavior and or verbiage creates suspicion. Fourth, vehicle searches are time consuming, awkward, and potentially dangerous to conduct on a roadside so officers don’t generally conduct them at random. Finally, a numerical disparity does not in and of itself infer discrimination. Disparity is a mathematical figure while discrimination is a conscious thought process occurring in a person’s mind. Raw data cannot accurately describe the thought processes of thousands of officers across a state after the fact.

On page two of the Executive Summary, Baumgartner and Epp (2012) write, “These differences carry over into the eventual outcome of the police stop. Whites are more likely to receive a warning and Minority drivers are more likely to be arrested after a stop . . . Minorities are consistently more likely to be arrested, and therefore less likely to receive a warning, for the same types of infractions as Whites.”

First, this blanket statement doesn't speak to the question of why the motorists were arrested. This is important because unless the driver has no identification, very few officers arrest drivers for minor traffic violations alone. Generally, something else comes out of the traffic stop that leads to an arrest; the driver may have a warrant, or there may be contraband or a weapon located after a consent search. Officers will not tie themselves up at a Magistrate's Office for an extended period over a minor traffic violation. Second, the enforcement action taken or not taken during a traffic stop is totally at the discretion of the INDIVIDUAL officer making that stop – no two traffic stops are alike. Finally, the numeric differences alone cannot put us inside the minds of officers and say with any degree of certainty that a person was searched or arrested solely because of their race.

On page three of the Executive Summary Baumgartner and Epp (2012) write, "In the analysis contained in the following pages, we review and detail the types of disparities that have been occurring in North Carolina since 2000 . . . document a wide range of comparisons, including some county-by-county analyses showing those "hot spots" where disparities are significantly above the state-wide average (Cabarrus, Onslow, Mecklenburg, Catawba, Orange, and Craven for Blacks; Cabarrus, Caldwell, Wake, Iredell, and Burke for Hispanics."

It has been asserted that there exists within the Durham Police Department a troubling pattern of Racial Profiling. We submit that if this were the case one should see Durham County represented in high numbers across the broad spectrum of the types of traffic stops. Yet, Durham County is NOT noted in this quote as one of the hot spots where disparities are significantly above the state-wide average for Blacks or Hispanics. Additionally, it would be interesting to know the demographic makeup of these counties in comparison to Durham County.

Table 1. NC Traffic Stops by Race and Purpose

Baumgartner and Epp (2012) submit Table 1 on page 5 of the study. It shows the breakdown for Whites, Blacks and Hispanics for each of ten types of stops and gives the population percentages for each group for the year 2010. Baumgartner and Epp (2012) submit that Blacks make up 22% of the overall population. The table shows that the percentage of

Blacks stopped is greater than their percentage of the population in 9 out of the 10 categories of stops.

This data is presented here, as it has been in other similar studies, as if there is a presumption that the various races should only be stopped in rates consistent with their proportion of the population. No basis for this presumption is provided in the study or the Executive Summary. As MacDonald (2002) noted in her article,

“The reigning fiction in anti-racial profiling rhetoric: That all groups commit crime and other infractions at equal rates. It follows from this central fiction that any differences in the rate at which police interact with certain citizens result only from police bias, not from differences in citizen behavior.”

MacDonald’s (2002) article goes on to highlight a follow-up study conducted for the New Jersey State Police. The article notes that:

“After the New Jersey State Police were placed under a consent decree for racial profiling, two things happened: 1) The numbers of consent searches and drug arrests by the troopers plummeted significantly; and 2) the proportion of Blacks stopped on the turnpike for speeding continued to exceed their proportion in the driving population. The troopers were accused of persistent profiling. The New Jersey State Police requested that a study be conducted to assess speeding behavior on the turnpike. If it turned out that all groups drive the same, as the reigning racial profiling myths hold, the troopers would accept the consequences. According to the study, blacks make up 16 percent of the drivers on the turnpike, and 25 percent of the speeders in the 65-mile-per-hour zones, where profiling complaints are most common. Black drivers speed twice as much as white drivers, and speed at reckless levels even more. Blacks are actually stopped less than their speeding behavior would predict – they are 23 percent of those stopped. **This suggests that a racial group’s proportion in a given population is less important than the group’s proportion of the violating population as it pertains to assessing racial profiling.**”

Secondly, statewide Black motorists made up only 29.78% of the total number of stops made versus 63.33% White. If Black motorists are being racially profiled for traffic stops, why is their total representation number so low? Shouldn’t we see a greater number of black motorists being stopped if stops were based on race alone?

Table 2. Percent Searched by Race and Purpose of Stop

Baumgartner and Epp (2012) submit Table 2 on page 6 of the study. It shows that Blacks and Hispanics are systematically searched at much higher rates than Whites, given stops for the same purpose.

First, systematically by definition denotes organized, procedural, routine, organizational or bureaucratic. To say that searches are systematical implies a structured system that all officers are trained on or aware of to perpetuate this action; and you should see much higher numbers of vehicle searches overall. Baumgartner and Epp (2012) don't provide any context for the data. Searches are conducted based upon objective criteria, i.e. probable cause or consent, both of which are documented in an officer's report when an arrest is made. The idea that Whites may simply deny consent at higher rates is one factor that should certainly be considered. Additionally, the verbiage explaining this table was complex and misleading. We had the analysis and the findings reviewed by Brian Aagaard, an internationally certified Crime Analyst. His assessment is as follows:

Baumgartner and Epp state, "If we calculate the ratio between the percent of Blacks who are searched to that of Whites (e.g. 4.86 compared to 2.74), that number is 1.77, as reported in the table. This means that Blacks are 77 percent more likely to be searched, given a traffic stop, than Whites."

While Baumgartner and Epp's calculation is mathematically accurate it is misleading without further explanation. Since searches after stops are relatively uncommon, both percentages for searches are low: 4.86 percent for Blacks and 2.74 percent for Whites. The percent difference between these two groups is relatively low; a 2.12 percent difference in the rate of being searched after a stop. Since the rate of searches after stops for all ethnicities/races is very low that slight difference is magnified when calculated as a ratio.

The percentage difference between the relatively uncommon police action of search after a stop (2.12%) should be explained with the context of the percent difference rather than only a simple ratio of two very low percentages.

Another way to present these percentages is that 95.14 percent of Blacks who are stopped are not searched compared to 97.26 percent of Whites who are stopped and not searched (again, a 2.12 percent difference). The ratio of Blacks who are not searched to that of Whites (95.14 compared to 97.26), that number is 1.022. This means that Blacks were 02.2 percent less likely not to be searched after a stop than Whites.

Table 3. Type of Search by Race

Baumgartner and Epp (2012) submit Table 3 on page 7 of the study. It shows the type of search broken down by race.

The information presented here provides some context as it pertains to searches. It shows that consent searches for Blacks and Whites are proportionately similar, 45.87 to 44.74 respectively. Table 3 also illustrates that a higher percentage of White motorists were searched pursuant to a search warrant than Blacks, although by a small margin. The searches based on probable cause illustrate searches of Blacks at a rate of 16.23 versus Whites at 10.51. **Probable cause means that the officer detected evidence via one of his or senses that was plainly evident and completely independent of race.** This table also shows that in searches incident to arrest, Whites are searched at a higher rate than Blacks – 41.00 to 34.40 with Hispanics at 48.57. This is somewhat confusing because it is basic police training across most jurisdictions we are aware of that everyone who is arrested is searched – usually more than once. Therefore, if Whites are being searched incident to arrest at higher rates, one might infer that Whites are being arrested at higher rates. Finally the searches conducted as Protective Frisks are comparable across all three races – Blacks at 3.25, Whites at 3.44, and Hispanics at 3.88. If the frequency of these searches were influenced by race then we should see disparities consistently across all of the search types.

Table 4. Basis of Search by Race

Baumgartner and Epp (2012) write that this table shows that Blacks are less likely than Whites to be searched as a result of suspicious behavior but equal or higher than Whites for all other search justifications, especially “suspicious movement.” They go on to summarize the tables that follow and note that these tables show that Blacks are arrested at higher rates, receive citations at similar rates to Whites, are less likely than Whites to receive a warning and are more likely to be released with no action.

This would seem to contradict the racial profiling assertion as well as contradicting itself. If traffic stops and actions were being taken based on race then we should see consistent disparities across all of the various categories; and yet, Baumgartner and Epp’s (2012) own data shows that Blacks are simultaneously arrested at higher rates and more likely to be released with

no action. We respectfully submit that arrests are being made based on probable cause, as they should be, which is independent of race.

Table 5. Percent Arrested by Race and Purpose of Stop

The presentation of the data contained in this table is misleading. We submit that officers do not routinely arrest for these minor violations alone. There are almost always additional violations discovered; the driver may have a warrant; or contraband is found which leads to an arrest. While a disparity in the “Total Arrests” number is evident, Baumgartner and Epp (2012) have not shown that the drivers were arrested for these types of violations rather than some additional violation discovered during the stop. **We would also submit that unless Baumgartner and Epp (2012) can prove that these were false arrests, the arrest data could just as well serve to refute the assumption that the stops and arrests were made based on race. The drivers were stopped and arrested based upon observed violations of law for which they were properly charged and arrested.**

Table 6. Percent Issued a Citation by Race and Purpose of Stop

This table shows some disparities reflected among Hispanics, rather than Blacks, versus Whites. The table shows that Blacks were issued fewer citations, 65.45%, while Whites were issued 68.88% and Hispanics were issued 72.06% of the total number of citations. This doesn’t comport with the assumption that a systematic practice of enforcement based upon race is at work. As one studies the data in the table, no consistency can be found to support the assumption that Blacks and Hispanics are suffering bias-based policing – Blacks are high in some categories and low in others. Hispanics are slightly higher in several categories, most notably in the checkpoint category. We respectfully submit that the lack of consistency should prohibit making broad assumptions.

Table 7. Percent Issued a Warning by Race and Purpose of Stop

This table shows no gross disparity in the total number of warnings issued among Whites (26.61%), Blacks (28.04%), and Hispanics (20.48%). As one studies the breakdown of the various reasons for the stop, one begins to see some variations, but there are no egregious disparities that would support an assumption that the lack of a warning being issued was based

upon the driver's race. The decision as to what enforcement action to take or not take lies within the discretion of each individual officer and this raw data can't take us into the minds of individual officers.

Table 8. Percent with No Police Action by Race and Purpose of Stop

This table also appears to contradict the assertion of bias-based policing by officers. Out of the total number of stops where no action was taken, Blacks suffered no enforcement action in 2.82% of the stops, Whites 2.14%, and Hispanics 2.20%. This contrasts with any assumption that enforcement actions are being taken based upon race. If that were true, how is it that Blacks and Hispanics are benefitting slightly from having no action taken? We submit that the many variables that impact the outcome of any traffic stop on any given occasion prohibit making broad assumptions based upon raw data.

Baumgartner and Epp (2012) write on page 11 under figure 4 that Blacks are more than 3 times as likely to be arrested after a stop for a seat belt violation compared to whites.

This is very misleading as it is written. Seat belt violations are infractions; consequently officers cannot make a custodial arrest for this violation. This chart, and the assertion associated with it, doesn't speak to the fact that the driver may have been arrested for another violation based on facts developed during the stop, such as a warrant or contraband. Presenting this disparity in this manner could mislead a reader into believing these arrests are being made because of a seatbelt violation.

Baumgartner and Epp (2012) write on page 11 under figure 5 that Blacks and Hispanics are less likely to receive a warning.

This doesn't comport with the chart showing that Blacks are released more often without enforcement action being taken. We repeat that issuing a warning is a discretionary decision unique to each officer; additionally, the existence of a numerical disparity alone does not illustrate discrimination.

Table 9. Percent with Contraband by Race

Table 9 shows that out of the total number of traffic stops where contraband was found, Blacks were found to possess contraband 1.23% of the time compared to Whites at .68% and Hispanics at .82%. The breakdown with respect to the types of contraband doesn't indicate any significant changes. Baumgartner's table shows that Blacks exceed Whites in each category. In point of fact, Blacks who were searched were almost twice as likely to have contraband of some type; almost three times as likely to have weapons; and twice as likely to have drugs.

Baumgartner and Epp (2012) go on to write that, "When drugs or other forms of contraband are found, Whites and minorities are treated differently. Figure 6 shows the percent arrested, issued a citation, given a warning, or with no police action after the discovery of drugs."

The difference Baumgartner and Epp (2012) allude to is not a gross disparity. Whites are arrested 44% of the time compared to 48% for Blacks and 54% for Hispanics. Whites are issued citations 45% of the time compared to 42% for Blacks and 33% for Hispanics. Whites are issued warnings 10% of the time compared to 9% for Blacks and 12% for Hispanics. No action was taken 1% of the time across all three races. These disparities do not in and of themselves suggest any bias-based policing on the part of officers. For example, one possible alternative explanation would be that the driver did not have photo identification. Thus, if the officer wished to charge the driver, then he or she would have to make a custodial arrest.

Baumgartner and Epp (2012) note that, "Appendix C shows in greater detail that outcomes, even for the discovery of the same type of contraband, are consistently different depending on the race of the individual searched. Here we see that Hispanics in particular are more likely to be arrested rather than given a citation. For Whites, a citation is more common after the discovery of drugs than arrest."

This is misleading in that it doesn't differentiate between the type of drugs found and or the amount. Possession of Marijuana, as long as it is a misdemeanor amount, can be charged on a citation and the driver released, assuming the driver has photo identification. Once the amount of marijuana exceeds a certain amount, the charge is a felony and can't be charged on a citation. Likewise, misdemeanor amounts of marijuana individually packaged for sale may warrant a felony charge and cannot be charged on a citation. Possession of harder narcotics (cocaine,

heroin, lsd, oxycodone, etc.) is a felony and necessitates a custodial arrest. Also, we again note that Baumgartner and Epp (2012) don't differentiate amongst stops where multiple violations are discovered or where the driver has no identification which would prohibit issuing a citation. We respectfully submit that all of the facts surrounding each stop must be considered before making assumptions.

Baumgartner and Epp (2012) provide four appendices which are described on page 1 of the Appendices Table of Contents. **Appendix A** Blacks and Whites Searched by the Police, by Purpose of Stop, by County. For each county with a minimum of 1,000 Blacks having been stopped, figures show the ratio of the percent of Blacks to the percent of Whites stopped for the reason indicated. The accompanying table shows the exact numbers for those counties with the extreme high and low values in the state. A summary table at the end shows the number of times each county appears in the high and low ratio list, from the ten comparisons made. If Blacks and Whites were searched in equal proportions, the ratios would be 1:1. **Appendix B** illustrates Hispanics and Whites Searched by the Police, by Purpose of Stop, by County. Same format as Appendix A, but for Hispanics. Only 9 comparisons are available because no county had over 1,000 Hispanics stopped for checkpoints. **Appendix C** illustrates Outcomes after the discovery of contraband by race. Police may discover contraband in the form of drugs, alcohol, money, or weapons. For each type of contraband, data show the percent of White, Blacks, and Hispanics who receive one of the following outcomes: a) arrest, b) citations, c) a warning, and d) no action. **Appendix D** illustrates Citation rates by type of stop, age, gender, and race. For each of the ten types of stops available, a series of tables and figures shows the percentage who receives a citation, by age category, gender, and race. The data allow a comparison of how different demographic groups are treated, given the same reason for having been stopped by the police.

If there was a systematic practice of bias-based policing during traffic stops and enforcement in Durham County, one might expect to see Durham County among the highest counties across a majority of the ten traffic stop categories. Table A. 11 on page 12 of the Appendix lists how often NC counties have the lowest or highest Black to White search ratios. **Durham County only ranks high in three (3) out of the ten (10) traffic stop categories.** Table B. 10, shown on page 23 of the Appendix, lists how often NC counties have the lowest or highest Hispanic to White search ratios in nine traffic stop comparisons. **Durham County only**

ranks high in two (2) out of the nine (9) traffic stop comparisons. Even more notable, Durham County ranks low in four (4) out of the nine (9) traffic stop comparisons.

The comparisons by race for police actions for various types of contraband shown in Appendix C do not show consistent disparities across the three racial types. Hispanics are arrested at a significantly higher rate of 60% of the time after alcohol is found, while arrests among Blacks and Whites are fairly close in this category – 42% to 47% respectively. All of the percentages remain fairly close across racial categories until Figure C.4 on page 26 of the Appendix. Here we see some disparity in police actions taken after contraband money is found. Whites are arrested 60% of the time; Blacks 73%; and Hispanics 38%. What this illustration doesn't speak to is why the money found was determined to be contraband. This might mean a motorist was encountered during a stop; the money was found during a consent or probable cause search; and the driver denied any knowledge of the money, denied possession, and it was seized as found property. Another scenario might be the driver was found in possession of narcotics; was arrested and charged for possession with intent to sell and deliver narcotics; and the money was seized as evidence as proceeds of criminal activity. It should also be noted that along with being arrested less often than Blacks and Whites, Hispanics were also given more warnings during these stops than Blacks and Whites.

In a report to the North Carolina Commission on Racial Disparities in the Criminal Justice System, Baumgartner and Epp (2013) state that, **“Rates of search vary dramatically across officers, with some searching fewer than 1 percent of the motorists they stop and others searching 20 percent or more. Similarly, some officers rarely search Whites but are more likely to search Blacks or Hispanics; others have the opposite pattern of disparity.”** This information is only useful if you know where these officers work and what their normal duties are. Officers working patrol have different work duties and habits from officers working highway drug interdiction. Additionally, emphasis on specific components of police work varies among officers. Some officers gravitate towards narcotics work; these officers tend to conduct more searches than other officers. Other officers prefer traffic enforcement; these officers stop more cars, but may not necessarily engage in as many searches.

Baumgartner and Epp (2013) go on to say, “Overall looking at the fairly even dispersion of points and the scale of the axes, we can conclude that for every traffic stop of a Black, there

are typically two stops of a White motorist.” This doesn’t comport with the assertions made by various critics that Black motorists are being stopped at higher rates than White motorists.

On page 9 of this report, Baumgartner and Epp (2013), refer to tables showing traffic stop and search data associated with the officer identification number;

“The table makes clear that for some officers, searching a White (or Black) motorist is an extremely rare event. Some of the ratios are calculated on numbers of searches that may be too low to draw strong conclusions. (For example one officer searched one Black motorist and one White, but had stopped 232 Blacks and 4,182 Whites.) In spite of occasional concern based on low numbers of occurrence, some powerful trends emerge. In Table 2, nine officers are shown to have searched more than 10 percent of the Black motorists they stopped. On contrast, only two officers searched more than ten percent of White motorists they stopped. Table 3 reveals a similar trend among Hispanics: 13 officers searched more than 10 percent of the Hispanic motorists they pulled over. The first part of Table 3 also reveals large numbers of Officer ID’s associated with high percentage of White searches but very few searches of Hispanic drivers. **The reasons for these disparities and the different patterns for Blacks and Hispanics are unclear.**”

Baumgartner and Epp (2012) don’t conclude that their information illustrates racial profiling or bias-based policing; they conclude that the reason for the disparities and differing patterns in their tables is unclear.

The Durham Police Department consulted with analysts and other social science researchers to ensure that our position was sound. One professor noted multiple irregularities in this study and concluded that there were far too many statistical and methodological irregularities in this study to consider it valid. Not the least of which was the complete lack of statistical tests that would allow the author to derive the findings that are reported. Another stated that there was not much of an argument against our practices when you look at Tables 3, 4, 5, 8, and 9. He noted that the bar graphs were very deceptive since they don’t take into account drugs and alcohol nor, more importantly, the actions of the drivers stopped. He noted that he would argue against the initial conclusions at the beginning of the paper by referring to the overall findings when all variables are included. Finally, our Department has a Certified Crime Analyst on staff; he is one of only two crime analysts in this state and one of only forty-five in the world certified by the International Association of Crime Analysts. He also reviewed the study and provided the following observations:

Sound research design is vitally important when examining complex social issues like the correlation between ethnicity/race and specific law enforcement action. Statistics that are taken out of context or analyzed on a superficial level can result in research conclusions that are potentially misleading and paint an inaccurate picture of a particular issue. Baumgartner and Epp's research design has components that are problematic which resulted in several inaccurate conclusions. **In general, Baumgartner and Epp did not isolate ethnicity/race from other variables that could explain the different rates in police action across ethnic and racial groups.**

POINT ONE: "Black and Hispanic citizens are subject to consistently higher rates of search and arrest than Whites." (Page Two, Paragraph One)

Research Assumption: This is the main argument of the research. Baumgartner and Epp's research assumes that the only variable that is different between the group of Black and Hispanic citizens that were stopped, compared to group of White motorists, is ethnicity/race.

Weakness in Research Design: Social science research seeks to isolate a specific variable in order to determine if it influences another variable. Baumgartner and Epp's research suggests that ethnicity/race affects the outcome of motor vehicle stops; specifically that Black and Hispanic citizens are subject to higher rates of search and arrest during traffic stops than Whites. A third variable other than ethnicity, however, may actually be responsible for the difference in the rates of search and arrest between ethnic/racial groups. Examples of other variables that may influence the outcome of a motor vehicle stop include the motorist's criminal history, location of motor vehicle stop (perhaps in a targeted enforcement area), warrants, an officer's personal experience with a specific motorist, et cetera. If these external variables had been controlled for in the research design it could be accurately determined if ethnicity/race is actually correlated with different rates of search and arrest. The authors did not control for these variables. Finally, the officer's decision to search/arrest is not necessarily linked to the reason for the motor vehicle stop, but to factors that are determined after the motorist has been stopped.

POINT TWO: "[...] while Blacks make up 22% of the overall population, they constitute 30% of those pulled over, 33% of people pulled over for 'other vehicle' issues, 37% of those pulled over for 'vehicle equipment' issues and 38% of those stopped for 'vehicle regulatory' issues. Hispanics, 8 percent of the population, represent 8 percent of those pulled over overall, but 25 percent of those stopped at checkpoints." (Page Five, Paragraph One).

Research Assumption: Baumgartner and Epp's research concludes that Black and Hispanic motorists are overrepresented in certain types of traffic stops based on their proportion in the overall population.

Weakness in Research Design: The overall population from which the ethnic/racial proportions are calculated is different from the population of

motorists/vehicles that provide cause for a motor vehicle stop. Also, another variable other than ethnicity/race may account for the rate at which Black and Hispanic motorists are stopped. Baumgartner and Epp's research considers two different populations as one in the same. **The authors cite population statistics at a statewide level [this is assumed, table 1 on page five doesn't cite the population percentages], while the population of their study is something different--citizens involved in motor vehicle stops.** The ethnic/racial proportion of the statewide population does not accurately reflect the ethnic/racial proportions of motorists/vehicles that provide cause for a motor vehicle stop. The variables associated with motorists/vehicles providing cause for a motor vehicle stop are many. Independent of the ethnicity/race of a motorist, officers choose to conduct motor vehicle stops for a variety of reasons: speeding, seat belt violations, vehicle equipment, et cetera. The population of this study, motorists that provide cause for a motor vehicle stop, is different than the overall population cited by the authors. For example, in regard to motor vehicle stops for speeding, there may be a segment of the population that does not engage in that activity, while another portion of the population may be overrepresented. Further, as mentioned previously, ethnicity/race may not be the causal variable in an officer's decision to make a traffic stop. Traffic stops for "other vehicle" issues, "vehicle equipment" issues, and "vehicle regulatory" issues may be related to another variable, such as socioeconomic status. Motorists, of any race, operating vehicles in disrepair may be more likely to be stopped for mechanical/equipment issues. The socioeconomic status variable is important because social science research has consistently indicated that ethnic and racial minorities are overrepresented in populations with lower socioeconomic status. . . If Baumgartner and Epp suspected that officers were stopping motorists based on a variable different from the condition of the vehicle, such as the ethnicity/race of the motorist, they could have analyzed stops during nighttime hours to control for the officer being able to determine the ethnicity/race of the motorist. The data that the authors used to conduct their research does not contain additional information that would provide context with other variables that may have been the actual causal factor in the motor vehicle stop. If additional information was available for other variables, like the condition of the motor vehicle cited for mechanical/equipment issues, it could be controlled for when examining the correlation between ethnicity/race and that specific type of motor vehicle stop.

POINT THREE: "Our analysis of over 13 million police stops, based on data collected and made available by the NC Department of Justice and covering all traffic stops in the state from January 1, 2000 through June 14, 2011, shows extensive disparities by race." (Page One, Paragraph One)

Research Assumption: Baumgartner and Epp's research assumes that traffic stops are uniform in nature.

Weakness in Research Design: Different agencies conduct stops for different reasons and for different purposes. Analyzing traffic stops on a statewide level without controlling for the different types of motor vehicle stops creates two

issues. First, it assumes that all agencies conduct the same types of traffic stops for the same reasons. Baumgartner and Epp's research assumes that State Highway Patrol traffic stops along an Interstate for a speeding violation are the same in nature and purpose as a traffic stop by a specialized unit of the Durham Police Department. The cause for the stop and the intent of the stop in this example are widely different. Secondly, the population subsets in which these traffic stops occur are very different. The State Highway Patrol traffic stops along an Interstate for speeding may have a different subset of the population of North Carolina than a traffic stop related to directed patrol by a Durham Police Department HEAT unit operating in an area with high calls for service. **Comparing state-level population statistics with the population of high crime neighborhoods where police conduct targeted anti-violence operations is misleading.**

POINT FOUR: "When drugs or other forms of contraband are found, Whites and minorities are treated differently." (Page Twelve, Paragraph One).

Research Assumption: Baumgartner and Epp's research assumes the nature/quantity of contraband is uniform in each motor vehicle stop where drugs or contraband are found. The data set analyzed does not provide information regarding mitigating factors, such as the quantity of a specific type of drug that is found.

Weakness in Research Design: Without the context of other mitigating factors, nature, and quantity of contraband found during a vehicle search it is impossible to compare different police actions across ethnic/racial groups. Baumgartner and Epp control for the type of contraband, but no other variable. For example, the outcomes for police actions are compared "after drugs are found" but it does not control for what specific type or quantities of drugs are found. Also, police action independent from the original reason for the motor vehicle stop is not accounted for in the research.

APPENDIX D NOTE: The graphs have skewed scale bars. If the graphs were recreated on a chart with a percent scale from 0 to 100 apparent differences would appear to be much less significant. The graph on page 55 of appendix D is an excellent example of skewing the scale bar to overemphasize differences in values.

CONCLUSION: In general, Baumgartner and Epp did not isolate the ethnicity/race variable from other variables that could explain the different rates in police action across ethnic and racial groups. Further, they did not accurately represent the actual population of the study, motorists/vehicles that provide cause for a motor vehicle stop. Finally, the data that Baumgartner and Epp analyzed did not include information on other potentially important variables that would provide context and allow the researchers to control for variables other than ethnicity/race. Without additional data only a superficial analysis of the correlation between ethnicity/race and different types of police action could be

conducted. Taken together, this led to a misleading and inaccurate picture of the nature of motor vehicle stops in North Carolina.

Our research of the literature regarding traffic stop studies supports this position as well. MacMahon et al. (2002) wrote, **“The existing body of research displays great diversity in methods and in findings, but it has not generated an understanding of the nature and extent of racial profiling, or of the circumstances and types of police activities where profiling is more prominent or absent. At present it does not know the extent to which the allegations of racial profiling can be substantiated by social research, or if any of the proposed solutions to this problem will be effective (or counterproductive).”**

Conclusion

The Department respectfully submits that no clear and convincing evidence has been presented that indicates or suggests that there is a culture, system, pattern or practice of racial profiling either ongoing or tolerated. The Department has demonstrated in this response that the collective body of racial profiling and traffic stop studies are, as a whole, inconclusive. Referring back to McMahon et al. (2002),

“The substantive findings from the available reports on racial profiling are diverse . . . Most of the analyses reported show that police traffic stops are not proportional to the racial distribution of that jurisdiction’s residential population, but most studies do not conclude that the police are engaged in racial profiling . . . every study that examined police searches found some racial disproportionality, at least in certain types of police searches but the majority of the report authors concluded that police search behavior does not indicate racial profiling . . . this body of knowledge provides an inadequate basis for setting public policy . . . because all studies have some methodological limitations, caution was recommended in using the findings of the available research.”

More recently, Grossi et al. (2012) stated, **“Research in this area, especially in the decision to search, has relied on outcomes test and correlates that are largely devoid of theory. Thus the research is unable to provide a clear understanding of police decision making during a traffic stop.”**

The Department has also spoken to the internal controls that are in place in an effort to make it clear that racial profiling is unacceptable and to prevent racial-profiling behaviors:

- State mandated training on racial profiling during the academy and annually thereafter
- City sponsored diversity training for command level officers
- Recruits are directed to identify and get to know community or neighborhood leaders during their training in an effort to connect with the community on a more personal level
- In-car camera systems in patrol cars that record the interactions during traffic stops. This program is being expanded to include other proactive units as well
- Clear policies prohibiting bias-based policing and other conduct unbecoming of Police Department personnel

Additionally, the Department is currently researching other types of diversity training that could be delivered to the officers.

The Durham Police Department does not presume to say that racial profiling doesn't exist; nor does it deny the possibility that some of its officers **may** engage in such reprehensible activity. The Department has very clear policies prohibiting such behavior, and a very robust internal investigative process to address these issues should they arise. The Department doesn't challenge the numerical accuracy of the data that has been presented or the disparities that it illustrates; however, the Department respectfully submits that a numeric disparity is not synonymous with discrimination. The Department does acknowledge that descriptive statistics and bivariate analysis have their place as good starting points for research and discussion. It is the Department's position that descriptive data as presented by the Baumgartner study and the fact sheet prepared by the Southern Coalition for Social Justice should not be the sole basis for making broad-brush accusations or assumptions against any police agency and its staff or for making public policy decisions. Additionally, data presented in this fashion should not be touted as proof of racial profiling or bias-based policing. To do so is to engage in the same type of stereotypical thinking that our officers are being accused of.

Allegations of Inequities within the Complaint Process of the Durham Police Department and Concerns Regarding the Citizen's Police Review Board

Introduction

In A Public Statement on Racial Profiling, the Durham Branch of the NAACP (2013) has put forth concerns regarding what it sees as a lack of accountability and transparency within the Durham Police Department's complaint and investigation processes. As it stated in a public statement regarding this and other issues, "Combined, these are evidence of a broken system deeply in need of repair. . . Clearly, more work needs to be done to achieve the goal of fixing the currently unjust system operating in our city . . ." We take issue with the characterization of our processes as broken or unjust. The Durham Police Department investigates every complaint that it receives - no one's concerns are ignored. We respectfully submit the information that follows in an effort to add more context to the issue and provide an alternative viewpoint.

The Durham Police Department is continually working to stay at the forefront of the best practices within the law enforcement profession. To that end, the Department welcomes input and suggestions from all corners; however, the Department must respectfully disagree with the NAACP's characterization of our complaint processes. The public statement released by the NAACP speaks to two primary issues:

1. A perceived lack of power and ineffectiveness of the Durham Civilian Review Board, and the fact that the Review Board doesn't review the Police Department's internal complaints; and
2. Alleged over-policing in communities of color.

Internal Affairs Investigations Generally

The NAACP submitted a Public Information Request in April of 2013 and collected a compilation of figures regarding complaints, their findings, etc. In its public statement the NAACP (2013) notes that, "Between 2004 and 2009, the Durham Police Department received 252 complaints of misconduct, yet 75% of those complaints were dismissed by the Durham Police Internal Affairs department. During the same time the Civilian Review Board received only 5 appeals and held no hearings to investigate." This type of blanket recitation of data is

open to many interpretations and some readers might infer that this rate of alleged dismissals is high thereby suggesting a system flawed in the officers' favor. There is no basis for this assumption. If one follows that line of thinking then it begs the question of, "Exactly what is an acceptable rate and why?" It is unreasonable to attach some hard fast presumptive rate of sustained findings when no two cases are ever alike. **Findings are made based on objective facts and evidence that are uncovered during the investigation.** This is totally appropriate no matter what type of investigation is being conducted. Many encounters between citizens and officers are one-on-one. Absent an independent witness, or an audio or video recording, it is one person's word against the other. Administering polygraphs on every complaint is cost prohibitive - approximately \$1500 dollars per exam. Consequently, in such cases, there is no way to determine what occurred with any degree of exactness.

The types of internal investigations vary. The Durham Police Department's General Order 1014 R-7 Internal Affairs, defines the types of internal investigations:

TYPES OF CASES

All complaints will be investigated without regard to the identity of the complainant or Department member. Professional Standards shall divide complaints into the following three primary categories:

Performance Review

These complaints shall be investigated at the division or district level, and will mainly center on job performance issues or other minor issues involving the employee. In incidents involving Uniform Patrol officers or officers of any division who were working off-duty when the complaint occurred, the Uniform Patrol District Commander of the District where the incident occurred shall be responsible for investigation of any Performance Reviews. The completed Performance Review Report (Attachment 1), along with a letter describing any discipline recommended, will be forwarded within 45 days of receipt to the Professional Standards Division for review and archiving.

Note: Whenever an officer discharges his or her firearm or Taser in a circumstance unrelated to taking an enforcement action, the Professional Standards Division will review the Performance Review Investigation pertaining to the circumstances of the accidental discharge pursuant to GO 4009 to determine if there were any policy or procedural violations.

Citizen Complaint

These complaints are initiated by a source outside the Department. The complaint may be received in written form, taken via telephone, fax, email, or any other electronic form of communications, or in person by a member of the Department. Anonymous complaints will also be accepted and thoroughly investigated. When a citizen complaint report is received by any member of the department, the member will immediately forward a copy of the complaint to the Internal Affairs Commander. Upon review by the Professional Standards Division, these complaints may be retained for investigation by Professional Standards, or may be classified as a performance review, depending upon the seriousness of the allegation. Less serious complaints will be entered on a Performance Review Report and returned to the member's supervisor to handle. Serious complaints and matters in which criminal charges are a possibility will be assigned as an Internal Affairs case.

Administrative Review

These complaints are initiated by the Chief of Police, and usually involve a serious allegation of member wrongdoing, or are of the nature that the actions of the employee need to be reviewed in order to insure the integrity of the member and the overall integrity of the Department. Examples of administrative reviews would be officer involved shootings or weapon discharges, employee disruption in the workplace, in-custody deaths, and member uses of force.

Additionally, the Durham Police Department's General Order 1014 R-7 Internal Affairs also defines the various types of findings once an internal investigation is concluded:

CASE FINDINGS

Case findings will be classified as either:

Unfounded - The incident did not occur or the officer investigated was not involved.

Not Sustained - There is insufficient evidence to either prove or disprove the allegation.

Exonerated - The incident occurred but was lawful and proper.

Sustained - The allegation is supported by sufficient evidence to indicate the allegation is true.

Withdrawn – The complainant withdraws the allegation before conclusion of the investigation or finding of fault.

Discontinued – Circumstances exist where the investigation can no longer be furthered on a member.

Policy Failure - The allegation is true. There is, however, no written policy governing the conduct in question therefore, the officer was not inconsistent with departmental policy. The Division should strive to be aware of changes in policies, procedures, rules and regulations that may prevent future allegations of misconduct, as well as the need to modify or expand training. Without compromising the integrity of any confidential information, the Professional Standards Commander shall notify the General Orders Administrator of the circumstances surrounding any findings of this type, so that any Departmental policy deficiency may be addressed.

There is no finding of 'dismissed' with respect to an internal investigation. The NAACP chose not to present the information in disaggregate form, consequently a reader can only assume that the 75% dismissal rate for the period from 2004 through 2009 the NAACP was referring to is a compilation of the findings of Unfounded, Not Sustained, Exonerated, Withdrawn, Discontinued, and Policy Failure. Taking the internal complaint data provided to the

NAACP for the years 2010 through 2012 and disaggregating that data we find the following approximated distribution of findings:

- 51% were sustained
- 11% were not sustained
- 12% were unfounded
- 22% were exonerated
- .1% were deemed policy failures
- .4% were withdrawn

Even if the data is broken down by the various findings, the raw numbers, in and of themselves, should not imply or suggest any wrongdoing on the part of the Department or its Internal Affairs staff nor should they imply any inadequacy in the Department's internal systems. If one follows that logic, then findings wouldn't be based on facts and evidence as they should be, but rather on an arbitrary numerical figure. If the current percentage of sustained complaints is unacceptable or troubling, then what is an acceptable figure and why? We respectfully submit that it is inappropriate to imply flaws and demand changes to a functioning system without sufficient facts and evidence to support such an implication.

While we do not profess to be perfect, internal investigations within the Durham Police Department are thorough and well documented. All available witnesses are interviewed and all available evidence is collected. All Internal Affairs interviews are audio and video recorded. Complainants are encouraged to submit any and all evidence that they deem important to their case. All of this information is used to render a finding. Then, the case is reviewed by everyone in the officer's direct chain of command, up to the Chief of Police, for concurrence or non-concurrence with that finding. Anyone in that chain of command may disagree with the finding and they must write an addendum outlining why. This addendum accompanies the case file as it moves through the chain of command so that others may read it and evaluate its merits. The Chief of Police has the final say as to the appropriate finding.

There are other persons within the City of Durham that can attest to the thoroughness of the Police Department's internal investigations: The City Manager and Deputy City Managers who review cases that are challenged during grievance proceedings by the officer; members of

the City of Durham Human Resources staff also review case files pursuant to grievance proceedings; and the members of the Civilian Review Board themselves can also speak to the quality of work involved in the Police Department's internal investigations. Finally, in a recent CALEA Assessment Report compiled by Chief Dennis Nelson and Assistant Chief Robert Stack (2013), the assessors wrote the following regarding Durham Police Department Internal Affairs cases, "A case file was randomly selected and inspected by an assessor and found to be well organized, professionally prepared, thorough, and properly stored in a secure location. Case files contain relevant case documents, correspondence to the complainant, notices to the accused, and a conclusion of fact.

The Civilian Review Board

The Durham Police Department has no say or input into the functioning and decision-making of the Civilian Review Board; nor does it refer cases to the Civilian Review Board; consequently, our response will be limited to the Police Department's role in that process. The Internal Affairs Division informs the complainant of the finding of his or her complaint once the investigation has been completed, reviewed, and signed-off by the chain of command. The complainant is informed by Internal Affairs in writing that if they are not satisfied with the finding, they may appeal the finding to the Civilian Review Board. Additionally, instructions for how to file an appeal, and the form for doing so, are provided to the complainant by the Internal Affairs Division with the letter informing the complainant of the finding. The complainant doesn't have to request this information – we provide it freely and gladly to every complainant. The Department is confident in its findings and does not shy away from a review by a neutral body if that is the wish of the complainant. The key here is that the complainant must exercise some personal responsibility and file the appeal. If there were only five (5) appeals filed between 2004 and 2009, all that indicates is that only five (5) people felt that it was important enough to them to exercise that personal responsibility.

If a complainant files an appeal to the Civilian Review Board, the Board notifies the Internal Affairs Division and requests a copy of all information related to the case in question. This includes:

1. A copy of the entire case file

2. All supporting documents
3. All evidence
4. All witness statements and interviews
5. And the complainant and officer interviews

Internally generated complaints comprise a wide variety of generally minor infractions and or job performance issues that include but are not limited to:

1. Missing an off-duty job or failing to go to court
2. Failing to complete mandatory in-service training
3. Citizen complaints of rudeness or misconduct
4. Assorted policy violations
5. Traffic accidents, etc.

In its public statement, the NAACP (2013) wrote, “More recently, between 2010 and 2012 . . . the Durham Police recorded 745 internal complaints – generated internally by the Police Department itself – only 50% of which were sustained.” With respect to having the Civilian Review Board critiquing internally generated complaints as a general practice, we respectfully submit that it is not reasonable, efficient, or necessary to have an external review of such matters. Absent a significant expansion of staff, the small Civilian Review Board couldn’t manage such a volume of work efficiently or timely. Additionally, the department recognizes that a figure such as 745 internal complaints may raise concerns with the general public. We respectfully submit that the fact that the Department self-generated these complaints is indicative of an agency taking proactive measures to manage its staff by not overlooking minor violations, but by addressing them promptly in an effort to prevent far worse transgressions from occurring in the future. To that end, the Durham Police Department employs an early warning system to identify officers that repeatedly exhibit unwanted behaviors. The Department utilizes software to track sustained complaints against its officers. Once a prescribed threshold is surpassed, a notification is generated and the officer’s commanders must put the officer on a documented program in an attempt to address his or her shortcomings.

Over-policing in communities of color

This assertion is inaccurate at best. Police resources are deployed based on need determined by a combination of factors such as 911 calls for service data; known criminal activity observed by officers; and crime data. For example, in 2012, there were a total of 2134 complaints of drug activity dispatched via 911 citywide. This figure doesn't include the numerous drug complaints submitted by citizens via telephone, email, or personal contact with officers, commanders, and other city officials. The people living in these communities of color are asking the police for help in ridding their neighborhoods of drug activity and the accompanying violence associated with drug activity. In District 1 alone, there were 963 calls from citizens to 911 about drug activity in 2012. The Department would be negligent in its duties if it failed to respond to such information. It is unfortunate that there is a disproportionate amount of violent crime and drug crime within communities of color. One key consideration that shouldn't be lost in this discussion is this: The victims who have to live in these communities – they are people of color. Failure to respond to their cries for assistance, coupled with objective data supporting their concerns, would be negligent and could lead to accusations of abandonment by the police. We will not abdicate our responsibilities nor willfully leave any community to be overrun by criminals and their passive enablers within that community.

Let's look at Operation Bull's Eye as an example. Durham Police Department Analytical Services Director, Jason Schiess, compiled *Operation Bull's Eye – Year 6 Brief* (2013). The following information is taken from that document to illustrate that deployment of police resources is based on data combined with community complaints; and such deployment, combined with community engagement, is a successful strategy for improving the quality of life in communities of color.

In May 2006, the Special Projects Unit of the Durham Police Department requested assistance from the Crime Analysis Unit in determining the densest two square mile area in the City for "Sound of Shots" call for service. When police data was analyzed for a one-year period from May 1, 2006 to April 30, 2007 it was discovered there was a spatial correlation between shots fired calls, violent gun crimes and validated gang members, and a disproportionate number in all three categories was located in a similar area of East Durham. In response the

Police Department committed to focusing on the area for a one-year period from August 1, 2007 to July 31, 2008. Called "Operation Bull's Eye," the primary goal of the initiative was to reduce violent gun crimes. The 6th year of the initiative was recently completed on July 31, 2013. There are 292 census blocks intersecting the Bull's Eye target area, totaling an estimated population of 11,877 residents (2010). Of this total, the racial breakdown is 64% black, 15% white, and 21% other. The ethnic breakdown is 27% Hispanic and 73% not Hispanic. The aforementioned demographics are significantly different than the Durham citywide breakdown for both race and ethnicity. During the one-year study period prior to the Bull's Eye initiative, there were 184 violent gun crimes in the target area. During the 6th year of the initiative, there were only 100 such crimes, a 46% reduction. When all violent crimes are considered, regardless of weapon type, a 39% reduction has been observed over the same time span, from 339 down to 208 violent crimes.

However, even more telling is the demographic breakdown of the victims and suspects of these violent crimes, in comparison to the demographics of the underlying population. Of the 301 victims listed in violent crime reports during the 6th year, 77% were black, 14% were Hispanic (ethnicity converted to race for comparative purposes), 9% were white and 60% were male. There were also 301 listed suspects in these reports, of which 85% were black, 7% were Hispanic, 7% were white and 88% were male. There were 878 calls for service from citizens during the one-year study period prior to the Bull's Eye operation. During the 6th year of the initiative, there were only 506 such calls, a 42% reduction (Schiess, 2013).

Police detractors have pointed to such actions as over-policing in communities of color. We respectfully submit that failure to take action to respond to the needs of the people who live in these communities would be a gross dereliction of our duties. Police detractors also fail to mention that the police didn't simply occupy this community or any other for that matter. There was a coordinated partnership between the citizens who live in these communities; the police department; and other City of Durham departments such as Solid Waste, Neighborhood

Improvement Services, Code Enforcement, etc. All of these entities worked in coordination to improve the quality of life in the Bull's Eye target area; and this coordination has been replicated throughout the city. Parks that were once open-air drug markets and gathering places for street gangs can now be enjoyed by families. City blocks that used to provide curbside service for drug users are now clear and safe for children to play; and people can enjoy sitting on their front porches in relative safety and comfort. There is still much work to be done; however, the successes achieved are noteworthy.

We do not imply or suggest in any way that this is a case of the ends justifying the means; there is no room in professional law enforcement for that type of thinking. We do respectfully submit that every effort is made to deliver quality police service in response to continually changing needs. The success that has been achieved must now be maintained or we run the risk of losing the precious ground that has been gained.

Works Cited

- Rand, Corp. (2004). *Assessing Racial Profiling More Credibly: A Case Study of Oakland, California*. Retrieved October 2, 2013, from <http://www.rand.org>
- Grossi, E., Higgins, G, and Vito, G. (2012). *The Impact of Race on the Police Decision to Search during a Traffic Stop: A Focal Concerns Theory Perspective*. *Journal of Contemporary Criminal Justice*, 28, 166-183
- McMahon, J., Garner, J., Davis, R., and Kraus, A., *How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends On It!, Final Project Report for Racial Profiling Data Collection and Analysis*. (Washington, DC: Government Printing Office, 2002)
- Baumgartner, F. R., & Epp, D. (2012). *North Carolina Traffic Stop Statistics Analysis: Final Report to the North Carolina Advocates for Justice Task Force On Racial and Ethnic Bias*. University of North Carolina at Chapel Hill, Department of Political Science
- MacDonald, H. (2002, March 27). *The Racial Profiling Myth Debunked*. City Journal. Retrieved September 30, 2013 from <http://www.city-journal.org>
- The Commission on Accreditation for Law Enforcement Agencies. (2013, June). *Durham (NC) Police Department Assessment Report*: Nelson, D. and Stack, R.S.
- The Durham Police Department. (2013, September). *Operation Bull's Eye – Year 6 Brief*: Schiess, J.
- Durham Police Department General Order 1014 R-7, Internal Affairs. (2013).
- Baumgartner, F. R., & Epp, D. (2013). *Racial Disparities in Police Traffic Stops in North Carolina, 2000-2011: Presentation to the North Carolina Commission on Racial Disparities in the Criminal Justice System*. University of North Carolina at Chapel Hill, Department of Political Science
- Fridell, L. (2004, June). *Responses to Racially Biased Policing and the Perceptions of its Practice*. Presentation to Massachusetts Chiefs of Police. Retrieved from [www.policeforum.org/.../racially-biased-policing/.../MassachusettsChiefs2\[1\].Ppt](http://www.policeforum.org/.../racially-biased-policing/.../MassachusettsChiefs2[1].Ppt)
- Smith, W., Davison, E., Zingraff, M., Rice, K., & Bissler, D. (2004). *An Empirical Investigation of the Possible Presence and Extent of Arbitrary Profiling in the Charlotte-Mecklenburg Police Department: Final Report to Charlotte-Mecklenburg Police Department*. North Carolina State University, Department of Sociology and Anthropology. Retrieved from http://www.policeforum.org/library/racially-biased-policing/supplemental-resources/Charlotte_Mecklenburg_3_2004%5B1%5D.pdf October 18, 2013
- The Durham Branch of the National Association for the Advancement of Colored People (2013). *Durham NAACP Public Statement on Racial Profiling and Police Misconduct in Durham, North Carolina*.

Agaard, B. (2013). *North Carolina Traffic Stop Statistics Analysis: Review of Research Methods*.

